

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

ASD SPECIALTY HEALTHCARE, INC., d/b/a	:	
ONCOLOGY SUPPLY,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO. 1:05-cv-0591-MEF
	:	
ONCOLOGY & HEMATOLOGY CENTERS OF	:	
ATLANTA, P.C., and LLOYD G. GEDDES,	:	
	:	
Defendants.	:	
	:	

ASD Specialty Healthcare, Inc. is a California corporation with its principal place of business in Texas. ASD Specialty Healthcare, Inc. operates under various d/b/a's or trade names, including Oncology Supply, which maintains an office at 2801 Horace Shepard Drive, Dothan, Alabama.

4. The second appears in Paragraph 4 of its Complaint, which reads:

This Court has subject-matter jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332(a) because (a) the plaintiff is a citizen of the State of California and the State of Alabama, (b) the defendants are citizens of the State of Georgia, and (c) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

Since ASD has its principal place of business in the Texas, Plaintiff seeks leave to amend Paragraph 4 of its Complaint to read:

This Court has subject-matter jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1332(a) because (a) the plaintiff is a citizen of the State of California and the State of Texas, (b) the defendants are citizens of the State of Georgia, and (c) the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

5. Federal Rule of Civil Procedure 15(a) provides that leave to amend pleadings "shall be freely given when justice so requires."

6. Plaintiff urges that leave to amend its Complaint should be granted in this case. The proposed amendment changes only Paragraphs 1 and 4 of the Complaint, and has no impact on the Court's subject-matter jurisdiction over this action. Furthermore, the proposed amendment makes no changes to any of the factual allegations that are material to the claims Plaintiff asserts in this action, and, accordingly, will not prejudice Defendant. Accordingly, Plaintiff also urges that the Court order that the filing of First Amended Complaint be made nunc pro tunc to the date of original Complaint which it amends and deemed a substitute for the original Complaint so that Defendant has no need to answer the First Amended Complaint.

WHEREFORE, for the foregoing reasons, Plaintiff respectfully requests this Honorable Court to enter an Order allowing it leave to file the First Amended Complaint attached hereto as

Exhibit A and providing that the filing of First Amended Complaint be made nunc pro tunc to the date of original Complaint which it amends and deemed a substitute for the original Complaint so that Defendant has no need to answer the First Amended Complaint.

Respectfully submitted,

/s/ Heath A. Fite

Reid S. Manley (MAN039)

Heath A. Fite (FIT011)

Attorneys for Plaintiff

ASD SPECIALTY HEALTHCARE, INC.

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that on June 21, 2006, I have served a copy of the foregoing document by Notice of Electronic Filing to David E. Allred.

/s/ Heath A. Fite

Heath A. Fite